

other States. We remember the show of support from the gulf when we were struck by Hurricane Hugo, and South Carolinians have not been hesitant to come to the gulf's rescue. Well over 2,000 South Carolina families have contacted our Red Cross to offer whatever assistance is needed. It is now estimated that up to 5,000 evacuees are being hosted in South Carolina, either by individual families or in shelters such as the Palmetto Expo Center in Greenville.

The South Carolina National Guard has also joined in the relief effort. Nearly 350 of them have been to the gulf to help. Countless churches and civic organizations have taken their own initiatives to organize relief efforts. From fundraising drives to collections and delivery of supplies, to driving to the region to volunteer in any capacity needed, the people of South Carolina have risen to the occasion. This show of support is so encouraging to me about our State and the state of our Nation. Americans are caring and compassionate, and we will work side by side with our fellow citizens to rebuild and bring hope back to the gulf coast.

This afternoon my Subcommittee on Disaster Prevention and Prediction will be hearing from the Director of the National Hurricane Center and witnesses from the gulf coast region on what the Government got right in advance of the storm and how we can replicate that in the future to protect our Nation's coastal communities. Our most powerful defense against hurricanes is accurate prediction and effective evacuation. I look forward to their testimony and am confident it will provide important lessons for America's emergency planners.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2744, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food

and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Bennett-Kohl amendment No. 1726, to amend the Rural Electrification Act of 1936.

Reid (for Nelson of Nebraska) amendment No. 1732, to prohibit the use of funds for developing a final rule with respect to the importation of beef from Japan.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 1732

Mr. NELSON of Nebraska. Mr. President, I rise to speak about efforts to resume normal beef trading relationships with Japan. I thank my colleagues from my neighboring beef States for their leadership and support and so many others for their efforts in seeking a bipartisan resolution to this matter.

As I travel through Nebraska, attending events and participating in summer parades throughout the largely rural landscape, I am constantly reminded of the importance of our beef industry. Prominently displayed on many vintage cars and pickup trucks are generic black and yellow license plates that boast a clear message—"Nebraska, the Beef State." While it is unlikely any modern day automobile in Nebraska now or in the future will sport that yellow and black plate of old, our billboard slogan, "the Beef State," is still the message people equate with Nebraska.

I am here to address an important amendment that will suspend the rule-making process the United States Department of Agriculture has proposed and published in the August 18, 2005 printing of the Federal Register in a rule entitled "Importation of Whole Cuts of Boneless Beef from Japan." The formal public comment period was closed yesterday so prompt Senate action is imperative. At the time the rule was published, the Nebraska Cattlemen, a grassroots organization whose individual producer members determine issues of importance to the Nebraska beef industry, wrote to me to request a stepped-up effort to convince Japan to resume imports of United States beef. In their letter they stated:

[N]ormalization of beef trade must be progressively pursued because it impacts the state's economy and because responsible trading partners treat each other fairly and justly.

The letter continues:

[T]rade should not be based on politics and protectionism.

I couldn't agree more. Trade must be based on fair play. Free trade must include a vision of fair trade. I am going to step back a moment to state why this is so important to me and the hard-working cattle producers and beef processors in my State. In the beef State, cattle outnumber people four to one and more than one of every five steaks and hamburgers in the Nation comes from my State. According to USDA, Nebraska ranks first in commercial cattle slaughter, processing over 4 million metric tons of beef and

beef products in 2004. Nationally, the numbers are even more compelling. The U.S. beef industry is worth an estimated \$175 billion, with cattle producers conducting business in all 50 States and operating 800,000 individual farms and ranches. The economic impact of the beef industry contributes to nearly every county in the Nation, and they are a significant economic driver in rural communities.

Demand for beef continues to increase, up nearly 20 percent since 1998. With 94.9 million cattle reported to be in the United States as of January 2004, there are 1.4 million jobs directly attributed to the beef industry. It is not a surprise that both the National Cattlemen's Beef Association and R-Calf United Stockgrowers of America have weighed in on the significance of their industry and the importance of having access to valuable markets throughout the world. With beef and beef variety meat exports accounting for approximately \$3.8 billion in 2003 alone, it is important to recognize NCBA's and R-CALF USA's statements on the USDA proposed rule that is the subject of my amendment.

On August 22, R-CALF USA stated that this is an example of "USDA tilting the playing field away from independent U.S. cattle producers by continuing to give market access before we gain market access."

I ask unanimous consent that the R-CALF USA statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

R-CALF UNITED STOCKGROWERS OF AMERICA APHIS' PLAN TO LIFT JAPAN BEEF BAN PREMATURE

R-CALF USA expressed disappointment with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS) proposed rule titled "Importation of Whole Cuts of Boneless Beef from Japan," published in Thursday's Federal Register (70 Fed. Reg. 48,494) to amend the agency's regulation for the importation of meat and other edible animal products that would allow Japan to export boneless cuts of beef to the United States.

"This is another example of the USDA tilting the playing field away from independent U.S. cattle producers by continuing to give market access before we gain market access," said R-CALF USA President and Co-Founder Leo McDonnell.

"In addition, USDA has yet to implement the scientifically recommended measures to prevent the potential for BSE amplification if it is introduced through imports," said Missouri veterinarian and R-CALF USA Region VI Director Max Thornsberry. "USDA's own scientists have strongly and consistently advised the agency to strengthen the U.S. feed ban by prohibiting plate waste from cattle feed before the U.S. lifts its ban on imported beef from any country where BSE exists."

Thornsberry, who also chairs the R-CALF USA Animal Health Committee, explained that the plate waste loophole would allow the uneaten portions of imported beef from BSE affected countries served at domestic restaurants to potentially enter the food chain for U.S. cattle. Although Japan currently performs a BSE test on all cattle

slaughtered for human consumption, nothing in this rule indicates importation of beef from Japan would be required to cease if Japan decides to stop testing for BSE.

"Ironically, while the USDA ignores this potential pathway for BSE infectivity, Japan has prohibited the feeding of plate waste to cattle since 2002. Japan has gone much further in developing systems to prevent exposure of cattle to BSE by prohibiting the feeding of blood meal and poultry meal."

Thornsberry explained that while Japan did not have a feed ban in place prior to 2001, it has since adopted the most stringent BSE risk-mitigation measures recommended by science, and will likely eradicate the disease from its cattle herds long before countries like Canada, which has chosen not to adopt stringent risk-mitigation procedures. Canada has chosen to implement only the minimal BSE-protection measures, despite recognition of multiple cases of the disease in Alberta.

"It is a real irony that while USDA supports its proposed rule based on the fact that Japan conducts BSE tests on all cattle slaughtered in Japan, thereby ensuring that BSE-infected cattle are removed from the food chain, the agency continues to prohibit U.S. packers from voluntarily testing for BSE to meet Japan's testing requirements, and as a means of restoring other U.S. export markets," said Thornsberry.

"The U.S. cattle industry deserves consistent and science-based standards from USDA, but this proposed rule is inconsistent with what the agency has stated are necessary standards for reopening U.S. export markets with countries the agency considers to be minimal risk for BSE," said McDonnell.

McDonnell explained that in January 2005, USDA published a major rule that set criteria for determining whether imports from a country would present a minimal risk of introducing BSE into the United States. While R-CALF USA has shown those criteria are insufficient, USDA now proposes to ignore its own rule and allow imports from countries that do not meet the minimal-risk criteria."

Thornsberry also expressed concern about USDA's action.

"It is obvious from this rule that the USDA intends to open the U.S. market to countries that have identified cases of BSE within their domestic herds," he explained. "It was thought that BSE affected countries would have to meet the same requirements placed upon Canada, and thus be classified as minimal risk countries prior to being cleared to export into the U.S. marketplace. That does not appear to be the case.

"If the United States does not take a leadership role in upwardly harmonizing global import and export standards for beef from countries affected by BSE, the U.S. will become the dumping ground for beef from countries that have BSE endemic within their cattle herds," Thornsberry said.

Also disappointing about USDA's proposed rule is that it clearly shows how the agency is subjecting U.S. cattle producers to a double standard. The proposed rule requires Japan to certify that exported beef was born, raised, and slaughtered in Japan.

"This is the very definition of origin that USDA found so objectionable in the Mandatory Country-of-Origin Labeling (M-COOL) law passed by Congress in the 2002 Farm Bill and intended to benefit U.S. cattle producers," said McDonnell. "USDA has repeatedly claimed there is no food-safety basis for COOL and that the 'born, raised and slaughtered' standard is both unnecessary and unworkable. Yet, in its proposed rule, USDA is using the 'born, raised, and slaughtered' standard in COOL to assure the safety of

Japanese beef, for the benefit of the Japanese cattle industry. This is the type of inconsistent treatment of the U.S. cattle industry that continues to erode industry confidence in the USDA."

"USDA cannot—with complete disregard for established science—keep moving the bar to suit its political agenda," Thornsberry emphasized. "It is a disservice to our trading partners, a disservice to U.S. cattle producers, and a disservice to global trade relations."

USDA will consider public comments on its Proposed Rule that are submitted before or on Sept. 19. For more information on making comments, or to view the Proposed Rule, please visit www.r-calfusa.com and click on "BSE-Litigation."

Mr. NELSON of Nebraska. I also have a statement from NCBA in reaction to the rule that states it "will not support finalization of this proposed rule until Japan has completed its process and accepts beef from the United States."

I ask unanimous consent to have the NCBA statement, dated August 19, 2005, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NCBA STATEMENT ON USDA PROPOSED RULE
TO ALLOW BONELESS BEEF FROM JAPAN
(By Jim McAdams)

Yesterday, the U.S. Department of Agriculture published a proposed rule in the Federal Register titled: Importation of Whole Cuts of Boneless Beef from Japan.

NCBA will not support finalization of this proposed rule until Japan has completed its process and accepts beef from the United States. Until both countries can agree to World Organization for Animal Health (OIE) guidelines, any beef product coming into the United States should meet the same requirements Japan has set for us.

This proposed rule would allow imports of boneless beef from Japan into the United States if the product meets all U.S. safety standards, including removal of specified risk material. Historically, annual beef imports from Japan have been very small, averaging 19,000 pounds in recent years, an amount equal to approximately one-half of one semi-trailer load. The highest level was 33,510 pounds in 1999, which is less than what one semi-trailer can haul. This Japanese product has averaged \$45 per pound.

The publication of this proposed rule begins the U.S. rule-making process to fulfill our part of the framework agreement announced October 23, 2004 by U.S. and Japanese officials.

There is no scientific basis for continued restrictions on boneless beef when safeguards are in place. BSE infectivity has never been found in muscle tissue. For these reasons, the United States has repeatedly called on Japan to open the border to U.S. beef, and NCBA calls for this action simultaneous to allowing imports of Japanese beef into the United States.

NCBA will continue our aggressive push for the complete re-opening of all export markets for U.S. beef. At NCBA's continued urging, re-establishing beef exports is at the top of the trade agenda at the White House, USDA and Congress. The President, Secretary of State, Secretary of Agriculture, U.S. Trade Representative and several senators and congressmen are actively pursuing this goal. NCBA also has traveled to Japan to meet with government officials to give them the assurances they need that U.S. beef is safe from BSE.

NCBA will not rest on this issue until there is harmonization of beef trade based on

science. The framework agreement states, the "two countries will resume two-way trade in beef and beef products, subject to their respective domestic approval processes, based upon science."

NCBA members believe our beef has every right to compete for its share of the 96 percent of the world's population that lives outside the United States. Not only do U.S. cattle and beef producers produce the best beef in the world, scientists agree beef is safe from BSE.

Mr. NELSON of Nebraska. Over the past few days, much has been done to elevate the discussion on the need to resume a normal trade relationship with the Government of Japan. Last week I joined Congressman TOM OSBORNE of Nebraska in a letter to USDA Secretary Mike Johanns, urging the Secretary to delay the proposed rule until such time as Japan completes its process and accepts beef from the United States. Another letter was sent to Secretary Johanns at approximately the same time by a number of my Senate colleagues—Senators ROBERTS, CORNYN, CRAIG, BURNS, CRAPO, ALLARD, HUTCHISON, THOMAS, THUNE, and fellow Nebraskan Senator HAGEL. Their letter emphasizes that Japan must lift this unnecessary embargo, stating that U.S. ranchers and rural communities cannot continue to bear the economic uncertainty resulting from bad international policy. They added that it would be difficult for Congress to accept any admission of Japanese beef into the United States. I am thankful for their leadership and recognition that USDA's rulemaking effort should cease.

Additional letters that I signed, again with bipartisan support, were forwarded to President Bush and Secretary of State Condoleezza Rice. The letters complimented the administration's work in impressing upon Japanese officials the importance of the resumption of trade and urged their continuing efforts in making restoration of United States beef trade the highest economic priority with Japan.

This amendment is simple and straightforward. If passed, the amendment would restrict funds made available in the Agriculture appropriations bill from being used by the Secretary of Agriculture for the purpose of developing a final rule relating to the proposed rule entitled "Importation of Whole Cuts of Boneless Beef from Japan," to allow the importation of beef from Japan unless the President certifies to Congress that Japan has granted open access to Japanese markets for beef and beef products produced in the United States.

While some have said this amendment is too restrictive, limiting the ability of the Agriculture Secretary to negotiate with Japan, I see it another way. I see it as simply applying the same policy Japan has in place against United States beef.

I think it strengthens the Secretary's hand by sending Japan the clear message that the Senators from beef-producing States and from our neighboring States are not going to drop

this matter. Our beef is the safest and highest quality in the world. There is no science-based reason for the embargo to continue, and if they want to sell beef here, then they need to let us sell beef there.

Finally, I cannot back down from a personal commitment to the folks back home to aggressively pursue a Japanese market that in 2003 accounted for \$1.4 billion of the \$1.7 billion beef export market.

Like Secretary Johanns, when he served as Governor of Nebraska, I have traveled to Japan on numerous occasions touting the exceptional quality and value of Nebraska beef and U.S. beef. Beef producers throughout the Nation produce a superior quality product and have been very supportive of Secretary Johanns' continuing efforts on behalf of the U.S. beef industry as Secretary of Agriculture.

Unfortunately, bipartisan letters of support have not been able to resolve this issue. A congressional response is warranted. That includes a strong statement that prematurely allowing Japan any access to our markets is simply unacceptable.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am interested in the subject which is raised by the Senator from Nebraska in his amendment. There are some aspects with relationship to it about which I would like to get a little more information. I would like to set the vote for 11:25 a.m. If I may, before we lock that in, there are a few items I would like to settle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I ask unanimous consent that the Democratic leader be recognized to speak at 2:15 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

AMENDMENT NO. 1738

Mr. ALLARD. Mr. President, I ask that the pending amendment be laid aside, and I ask that the clerk report amendment No. 1738.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself, Mr. ROBERTS, Mr. CRAIG, Mr. BURNS, Mr. THUNE, and Mr. HAGEL, proposes an amendment numbered 1738.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on the importation into the United States of beef from Japan)

At the appropriate place, insert the following:

SEC. _____. It is the sense of the Senate that the United States Government should not permit the importation into the United States of beef from Japan until the Government of Japan takes appropriate actions to permit the importation into Japan of beef from the United States.

Mr. BENNETT. Mr. President, I ask unanimous consent that the vote in relation to the Allard amendment No. 1738, to be followed by a vote in relation to the Nelson amendment No. 1732, occur at 11:20 a.m. today, with no amendment in order to either amendment prior to that time, and that the two votes occur in that order. I further ask that there be 2 minutes between the two votes for explanation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, if the Senator from Utah will yield, I would like to have an opportunity, with the presentation of my amendment, to speak for 10 minutes, if I might.

Mr. BENNETT. The Senator from Colorado should certainly take the time to explain his amendment. The Senator from Nebraska has expressed a desire to respond to the Senator from Colorado. I suggest that the time between now and the vote be equally divided between the Senator from Colorado and the Senator from Nebraska, or should we say the Senator from Colorado have a little extra time because it is his amendment. However we work this out, I think we should make sure both sides get an opportunity to speak.

Mr. ALLARD. Mr. President, how much time is remaining until the next vote?

Mr. BENNETT. There is approximately 10 minutes remaining until the vote.

The PRESIDING OFFICER. There is approximately 10 minutes remaining.

Mr. ALLARD. Mr. President, I ask unanimous consent that the time until the vote be equally divided, with 5 minutes per speaker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I thank the Senator from Utah, and I appreciate his leadership.

The Government of Japan has maintained an embargo on U.S. beef for more than 20 months. The beef industry is an integral part of the U.S. economy. It is an integral part of the State which I represent, the State of Colo-

rado, and is an integral part of Nebraska's economy, as we just heard from Senator NELSON about concerns that apply to his State. This issue is particularly important for the southern and western parts of the United States.

Before the embargo, exports to Japan were approximately \$100 million a month. Today, the border closure has cost us over \$2 billion. Since the border closure, 10,000 U.S. meat packers have lost their jobs. To address this we came to an agreement with the Japanese on what it would take to open our borders to each other. The United States has worked diligently to meet our end of the agreement and to assure that we can resume trade with the Japanese. Yet even with all of our efforts, Japan's border remains closed. The Japanese Government has made some progress. Yet the process is becoming muddled underneath unnecessary bureaucracy on the part of the Japanese Government.

The United States has a long commitment to producing the world's safest food, and they still continue to have that strong commitment. The safety of U.S. beef is assured by sound science based on policy. I emphasize that U.S. beef is both safe and delicious. The time has come for us to express our frustration as a collective body.

I, along with a number of my colleagues, met with the Ambassador from Japan to the United States a number of months ago and was assured they were giving serious consideration to the embargo they placed against American beef because of, at that point, one case of mad cow disease in the United States. They were relatively assured that the process was going to move along. We told them at the time that we believed the process was being delayed. They assured us they would move it along.

They did move it along. Last week or so, we did get our decision back from this commission in Japan, and it was unfavorable as far as allowing U.S. beef to be imported into the country of Japan.

Japan has had a number of mad cow disease cases. We have had only two cases. Both of those have not resulted in any other outbreaks. They have had upwards into the teens of cases of mad cow disease, and yet they are using, in my view, the mad cow disease as a reason to impose an embargo against American beef.

We cannot stand aside and lose thousands upon thousands of jobs in the beef industry as a result of this action. It is not based on good science. We have extremely good meat processing procedures that protect human health in the United States, the best in the world as far as I am concerned. I don't think we have anything to be apologetic for. Just because you recognize one or two cases of mad cow disease does not mean you have a problem. It may mean you are doing a good job. I can think of countries that have not

had any cases of mad cow disease and may very well have it. It may be they are not doing a good job, that they are not checking for the disease, and if you don't check for it, you are not going to find it.

We have a very strict system of surveillance in this country. When we process beef, we hold suspected animals if they show any clinical signs at all, whether it is a temperature or that they show any signs of being uncoordinated that might suggest mad cow disease—if this is the case we take them out of the processing lines until we have a confirmation as to whether they are afflicted or not afflicted.

As a result of these frustrations, I offer this sense-of-the-Senate resolution asking that the U.S. borders not be open to Japanese beef imports until the Japanese borders are open to us.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank the Chair.

Mr. President, I respect my colleague from Colorado and I certainly appreciate his support in working to reopen the borders with the country of Japan. I feel like somebody on a trip asking the question: Are we there yet? For 20 months we have been asking this question: Are we there yet?

The sense-of-the-Senate resolution is perhaps a softer way of saying to Japan, finish this project as quickly as you can so this process does not go on another 20 months. The truth is I think it is time to move beyond our soft talk to harder talk. Perhaps this will help the Japanese Government understand that we are very serious about this continuing nontariff trade barrier against United States beef. It is extremely important to the economy of the State of Nebraska. It is important to the economy of our country. What it boils down to is it is unfair. There is no sound science that justifies the action that has been taken. With two cases of mad cow detected in the United States, one coming from Canada, statistically it is nonexistent in terms of the millions of head of cattle that are sent to slaughter every year.

When you look at the situation, you have to ask yourself the question of why has it taken so long, 20 months, for this process.

Now, I am at times frustrated by our own bureaucracy, but I think on its worst day, our bureaucracy can't compete with this process that has continued to delay and delay and delay this whole effort to try to reopen the trade between the United States and Japan for cattle.

I suggest we can do both. We can pass a sense-of-the-Senate resolution which perhaps says in its own way that we need to reopen the trade borders and knock down these trade barriers. But I think we also need to say that we cannot move forward through the USDA until—not suggest but say we cannot

move forward until and unless the Japanese reopen their borders to our exports. I think you can do both. I think one is a soft way, but the other sends a strong message. It is time for that strong message. Everywhere I go across Nebraska, I hear people say: How can this be? How can we continue to allow our trading partner to treat us this way? I think the answer is we cannot, and this is the way in which we stop it and we bring it to a head.

I thank the Chair. I yield the floor.

Mr. BENNETT. Mr. President, I would ask the Senators if they would allow us to do the Allard amendment by a voice vote, given the fact that the Senator from Nebraska has suggested he would be in support of this, and would allow us to do both. Perhaps we could adopt the Allard amendment by a voice vote and then move to the yeas and nays on the Nelson amendment.

I would ask each Senator if they would respond to the Chair how they might feel about that. I am happy to call for the yeas and nays on both amendments if that is what they would like, but I have a sense that the Allard amendment is probably going to pass since the Senator from Nebraska has indicated his position on it, and it may be we can save the Senate some time by having only one recorded vote rather than two.

The PRESIDING OFFICER. Without objection, the Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I have no objection to that procedure. I think it would perhaps save time for the Senate. I believe the sense-of-the-Senate resolution should be passed nearly unanimously by this body and it gives the opportunity for those who want to take a stronger position to be able to do it and be recorded as a yea or nay.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. The Senator from Nebraska and myself are on the same page. We are both greatly disappointed that the negotiations from Japan have not been progressing well at this particular point. I think we need to recognize that the State Department has been working hard on this issue as well as the Department of Agriculture. In fact, I have been told as recently as yesterday that the Secretary of State has had discussions with the Ambassador from Japan. I do think we need to do something on this floor to send a strong message to Japan about our concerns about their continuing to apply an embargo against United States beef. It is blatantly unfair and scientifically doesn't stand up.

As far as I am concerned, we can go ahead and adopt the Allard amendment by a voice vote or unanimous consent, however the chairman wishes to proceed. Then these things perhaps can get refined better in conference committee when we work through this process in conference committee.

The PRESIDING OFFICER. Under the previous order, the hour of 11:20

having arrived, the vote is scheduled to occur in relation to the Allard amendment.

Without objection, the Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. I thank the Chair.

In fairness to both efforts, if we are going to adopt the Allard amendment by a voice vote, is it possible then to adopt the Nelson amendment by a voice vote as well?

Mr. ALLARD. I have no objection on this side, Mr. President.

Mr. BENNETT. Mr. President, I think there will be some who might want to vote against the Nelson amendment since the administration is opposed to it. Secretary Johanns has made the statement to that effect. So for those who are not here who might want to be on the record, I think we perhaps should have the yeas and nays with respect to the Nelson amendment.

Mr. NELSON of Nebraska. Mr. President, it is hard to believe people might be inclined to vote against this amendment, but if that is the choice, I would withdraw my suggestion.

The PRESIDING OFFICER. The question is on agreeing to the Allard amendment.

The amendment (No. 1738) was agreed to.

Mr. BENNETT. Mr. President, with respect to the Nelson amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the question now is on agreeing to the Nelson amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—72

Akaka	Dodd	Murray
Allen	Domenici	Nelson (FL)
Baucus	Dorgan	Nelson (NE)
Bayh	Durbin	Obama
Biden	Ensign	Pryor
Bingaman	Enzi	Reed
Bond	Feingold	Reid
Boxer	Feinstein	Roberts
Brownback	Graham	Santorum
Burns	Harkin	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Jeffords	Shelby
Chambliss	Johnson	Smith
Clinton	Kennedy	Snowe
Coburn	Kerry	Specter
Coleman	Kohl	Stabenow
Collins	Landrieu	Talent
Conrad	Lautenberg	Thomas
Cornyn	Leahy	Thune
Craig	Levin	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeWine	Mikulski	Wyden

NAYS—26

Alexander	Frist	Lugar
Allard	Grassley	Martinez
Bennett	Gregg	McCain
Bunning	Hagel	McConnell
Burr	Hatch	Murkowski
Chafee	Inouye	Salazar
Cochran	Isakson	Stevens
DeMint	Kyl	Sununu
Dole	Lott	

NOT VOTING—2

Corzine	Rockefeller
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The amendment (No. 1732) was agreed to.

Mr. NELSON of Nebraska. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, on Thursday of last week, when Senator KOHL and I laid down the bill, I made the point that while there are no direct emergency aid funds in the bill, there are funds for many of the programs that would aid the victims of Hurricane Katrina and, frankly, programs they badly need.

To point out some of the increases over the fiscal year 2005 level that have impact on Katrina that are in this bill: \$16.6 million for food defense activities at FDA; \$36.2 million for food safety activities at USDA; nearly \$250 million in loan authorizations for rural housing, including housing repair; \$1.1 billion in rural utility loan authorizations for rural water and electric loans; \$22 million for the Women, Infants and Children feeding program; and \$5.6 billion in food stamps. These are all issues that affect the victims of Hurricane Katrina, and every State and every citizen will benefit from the programs in this bill. So I hope we can move forward with it in an expeditious fashion.

The USDA and FDA, the principal agencies funded in this bill, are working under very difficult conditions to address the needs in the hurricane-affected areas. FDA has had to transfer 50 employees from their regional office in New Orleans to Nashville, and USDA has had to relocate several hundred employees to keep its programs going.

So I hope we can do our best to effectively and quickly get this bill moving. I urge those who have amendments to the bill to come to the floor and help us with this bill.

We have one amendment which I understand has been cleared, and the Senator from Colorado has that amendment.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 1737, AS MODIFIED

Mr. ALLARD. Mr. President, I send to the desk amendment No. 1737, as modified.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 1737, as modified.

Mr. ALLARD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, line 9, before the period at the end insert the following: "Provided further, That the Secretary, through the Agricultural Research Service, or successor, may lease approximately 40 acres of land at the Central Plains Experiment Station, Nunn, Colorado, to the Board of Governors of the Colorado State University System, for its Shortgrass Steppe Biological Field Station, on such terms and conditions as the Secretary deems in the public interest: *Provided further*, That the Secretary understands that it is the intent of the University to construct research and educational buildings on the subject acreage and to conduct agricultural research and educational activities in these buildings: *Provided further*, That as consideration for a lease, the Secretary may accept the benefits of mutual cooperative research to be conducted by the Colorado State University and the Government at the Shortgrass Steppe Biological Field Station: *Provided further*, That the term of any lease shall be for no more than 20 years, but a lease may be renewed at the option of the Secretary on such terms and conditions as the Secretary deems in the public interest".

Mr. ALLARD. Mr. President, very briefly, what this amendment does is it just allows Colorado State University to lease land from the Agricultural Research Service. It is not a controversial provision.

I ask unanimous consent it be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

Is there objection to the unanimous consent request?

Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 1737), as modified, was agreed to.

Mr. BENNETT. I move to reconsider the vote with respect to the Allard amendment.

Mr. ALLARD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

Mr. BENNETT. Mr. President, I know of no other amendments available to us. Unless someone wishes to speak in morning business between now and the time we routinely break for the policy lunches, I ask unanimous consent that the Senate stand in recess until 2:15 p.m.

There being no objection, the Senate, at 12:10 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

NOMINATION OF JOHN ROBERTS
TO BE CHIEF JUSTICE

Mr. REID. Mr. President, one of the Senate's most important constitu-

tional responsibilities is to provide advice and consent with respect to a President's nominations. The task is especially important when the nomination is an individual to be Chief Justice of the United States. No one doubts John Roberts is an excellent lawyer and a very affable person. But at the end of this process, frankly, I have too many unanswered questions about the nominee to justify a vote confirming him to this enormously important lifetime position.

The stakes for the American people could not be higher. The retirement of Justice O'Connor and the death of Chief Justice Rehnquist have left the Supreme Court in a period of transition. On key issues affecting the rights and freedoms of Americans, the Court is closely divided. If confirmed, Judge Roberts, who is only 50 years old, will likely serve as Chief Justice and leader of the third branch of the Federal Government for many decades.

The legal authority we will hand to Judge Roberts by this confirmation vote is awesome. We should only vote to confirm this nominee if we are absolutely positive that he is the right person to hold that authority. For me, this is a very close question, but I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turns out to be the wrong person for this job.

Some say the President is entitled to deference from the Senate in nominating individuals to high office. I agree that deference is appropriate in the case of executive branch nominees such as Cabinet officers. With some important exceptions, the President may generally choose his own advisers. In contrast, the President is not entitled to much deference in staffing the third branch of Government, the judiciary. The Constitution envisions that the President and the Senate will work together to appoint and confirm Federal judges. This is a shared constitutional duty. The Senate's role in screening judicial candidates is especially important in the case of Supreme Court nominees because the Supreme Court has assumed such a large role in resolving fundamental disputes in our civic life. Any nominee for the Supreme Court bears the burden of persuading the Senate and the American people that he or she deserves a confirmation to a lifetime seat on that Court.

First, I start by observing that John Roberts has been a thoughtful, mainstream judge on the DC Circuit Court of Appeals, but he has only been a member of that court for 2 years and has not confronted many cutting-edge constitutional issues, if any. As a result, we cannot rely on his current judicial service to determine what kind of a Supreme Court Justice he would be.

I was very impressed with Judge Roberts when I first met him in my office soon after he was nominated, but several factors caused me to reassess my initial view. Most notably, I was disturbed by the memos that surfaced